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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,159	08/22/2003	Lorraine Love	14846-17	8886

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Michael B. Johannesen, Esq.
Lowenstein Sandler, P.C.
65 Livingston Avenue
Roseland, NJ 07068

EXAMINER	
KEEFER, MICHAEL E	
ART UNIT	**PAPER NUMBER**
2109	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/647,159	LOVE ET AL.	
	Examiner	Art Unit	
	Michael E. Keefer	2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/22/2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the Application filed 8/22/2003.

Specification

2. The use of the trademarks WebSphere, JavaBeans, and J2EE has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

3. The disclosure is objected to because it contains an embedded hyperlinks and/or other form of browser-executable code.

Applicant's attention is brought to the hyperlink in line 18 of page 5, and the hyperlink in line 9 of page 6.

Applicant is required to delete the embedded hyperlinks and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

4. Claims 2-6 and 8-16 are objected to because of the following informalities:

Regarding **claim 2**, the word "A" at the beginning of line 1 should be deleted and replaced with the word --The-- to improve the clarity of the claim.

The phrase --the step of-- should be inserted in line 1 between the words "wherein" and "delivering" to improve the clarity of the claim.

The phrase --the step of-- should be inserted in line 2 between the words "comprises" and "displaying" to improve the clarity of the claim.

Regarding **claim 3**, the word "A" at the beginning of line 1 should be deleted and replaced with the word --The-- to improve the clarity of the claim.

The phrase --the step of-- should be inserted in line 1 between the words "wherein" and "delivering" to improve the clarity of the claim.

The phrase --the step of-- should be inserted in line 2 between the words "comprises" and "displaying" to improve the clarity of the claim.

Regarding **claim 4**, the word "A" at the beginning of line 1 should be deleted and replaced with the word --The-- to improve the clarity of the claim.

The word "wherein" in line 1 should be deleted to improve the clarity of the claim.

The word "comprising:" should be deleted and the phrase --comprising the step of:-- should be inserted in line 1 after the word "further" to improve the clarity of the claim.

Regarding **claim 5**, the word "A" at the beginning of line 1 should be deleted and replaced with the word --The-- to improve the clarity of the claim.

The word "comprising:" should be deleted and the phrase --comprising the step of:-- should be inserted in line 1 after the word "further" to improve the clarity of the claim.

Regarding **claim 6**, the word "A" at the beginning of line 1 should be deleted and replaced with the word --The-- to improve the clarity of the claim.

The word "comprising:" should be deleted and the phrase --comprising the step of:-- should be inserted in line 1 after the word "further" to improve the clarity of the claim.

Regarding **claims 8-16**, the word "An" at the beginning of line 1 should be deleted and replaced with the word --The-- to improve the clarity of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 1 is directed to a method to effect multi-platform queue queries comprising the steps of sending, distributing, receiving, and delivering. In order for a claim to be drawn to statutory subject matter it must produce a concrete, useful, and tangible result. In this case there is a useful and concrete result, but not a tangible one. The mere act of delivering fails to produce a tangible result because information is not made available to a user nor is it stored in a memory for later use.

Claim 4, which depends from claim 1, fails to add any tangible result to claim 1 and therefore is rejected for the same.

Claim 2 is directed to the step of displaying in a web browser are rejected for being software, per se since the web browser is not implemented on a physical media.

Software is not a process, machine, article of manufacture or a composition of matter and thus is non-statutory subject matter.

Claims 3 and 5-6, are directed to the step of displaying are being rejected for being software, per se since there is no hardware claimed in which anything could be displayed to a user or stored in a memory. Software is not a process, machine, article of manufacture or a composition of matter and thus is non-statutory subject matter.

Claim 7 is directed to an apparatus for obtaining queue status comprising an input device, an application server and a display. In order for an invention to be patentable it must be directed to a process, machine, article of manufacture or a composition of matter. Since no structure is given other than software in the claim it does not fall under one of the statutory categories of invention and is thus rejected as non-statutory subject matter.

Claims 8-16, which are dependent on claim 7 fail to add any structure to the claim are thus rejected for the same.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 3-7, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chari (US 6,046,742) and Baker ("MIB for FIFO, Priority, Custom, and Fair Queuing").

Regarding **claims 1, 3, and 5-6** Chari discloses:

A method to effect multi-platform queue queries comprising:

sending a query regarding status of one or more queues to an application server (SNMP Manager); (Col. 2 lines 30-36, "Upon receiving a data request by a user, the SNMP manager opens one or more SNMP sessions")

distributing said query to one or more message servers on multiple platforms; (Fig. 10, block 1000, the MIB Manager Module 402 calls the SNMP module 416 to get MIB data from the network see also Col. 11 lines 49-51)

receiving queue status information from said one or more message servers at said application server; and (it is inherent that the remote devices must respond to the SNMP get requests or else the system would be unable to function)

delivering the status of said one or more queues. (Fig. 11 illustrates how information retrieved in Fig. 10 is displayed or delivered to the user.)

delivering the status of said one or more queues comprises displaying the status of said one or more queues in a tree structure. (See Fig. 16)

sorting queue information into a plurality of categories by said application server. (Col. 9, Lines 34-36 "the MIB 110 contains a hierarchal collection of variables" inherently discloses that the data collected is sorted info categories, as a hierarchy is a sorted collection of categories.)

displaying the plurality of categories and

displaying the plurality of categories in a tree structure. (Col. 11 lines 36-43 describe a method of displaying the categories in a tree format.)

Chari discloses all the limitations of Claims 1, 3, and 4-6 except that the data queried is queue status data.

The general concept of using SNMP to monitor queue status is well known in the art as taught by Baker (Baker teaches a MIB for use with SNMP to monitor queue status information).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the data monitoring method of Chari with the general concept of using SNMP to monitor queue status data as taught by Baker in order to increase the versatility of the system.

Regarding **claims 7 and 10-12** Chari discloses,

An apparatus for obtaining a status for each of a plurality of queues, wherein said queues operate on a plurality of platforms, said apparatus comprising:

an input device configured to receive a queue status request; (note Fig. 1, item 102, which receives a queue status request from the user (note the "user interact" box)

an application server configured to receive the queue status request from the input device, to communicate the queue status request to said plurality of platforms and to receive the queue status from said plurality of platforms; (Note the Maestro central server 107 in Fig. 1 which takes commands from the user computer 102, then requests information from a server 136 via SNMP)

a display configured to render the status of each of said plurality of queues (note the monitor connected to user computer 102 in Fig. 1).

a tree renderer configured to derive a tree structure from the queue status from said plurality of platforms. (Col. 11 lines 46-60 describes how the SNMP Window Module 416 derives a tree structure from MIB data)

said application server is further configured to process the queue status from said plurality of platforms into sorted categories. (The system uses the MIB hierarchical levels to group information into categories. Col. 11 lines 54-57)

a tree renderer configured to derive a tree structure from the sorted categories. (Col. 11 lines 56-58 show that the categories are used to create a tree structure on the screen)

Chari discloses all the limitations of claims 7, 10, 11, and 12 except that the information requested and sorted is specifically queue status information.

Then general concept of using SNMP and MIBs to retrieve queue status information is well-known in the art as taught by Baker, which teaches an MIB for the retrieval of queue status information.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the network monitoring system of Chari with the general concept of using SNMP and MIBs to retrieve queue status as taught by Baker in order to increase the versatility of the system.

8. Claims 2, 7 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chari and Baker as applied to claims 1 and 7 above, and further in view of IBM (NNRD435152 "Bloodhound Server Monitor Package").

Regarding **claim 2**,

Chari discloses all of the limitations of claim 2 except that the queue status is displayed in a web browser.

The general concept of using a web browser to access a network monitoring program is well known in the art as taught by IBM ("Bloodhound works with industry standard web browsers and the Apache web server" Page 1, paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the network monitoring method of Chari and the general concept of using SNMP to monitor queues as taught by Baker with the general concept of using a web browser to access a network monitoring program as taught by IBM in order to conveniently monitor servers that reside on the other side of a firewall. (Page 1 paragraph 2 lines 2-3)

Regarding **claim 8**,

Chari discloses all the limitations of claim 8 except for the input device and display being one system, and the application server being another system.

The general concept of separating an input device and display from an application server is well known in the art as taught by IBM (see figure 1, note that the computers running web browsers on the IBM Network at the bottom, and the Bloodhound collector and Web Server is located on a separate computer on a separate network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the network monitoring system of Chari and the general concept of using SNMP to monitor queues as taught by Baker with the general concept of

separating an input device and display from an application server as taught by IBM in order to allow multiple input devices and displays to access the application server.

Regarding **claims 13-16**,

Chari discloses:

a tree renderer configured to derive a tree structure from the queue status from said plurality of platforms. (Col. 11 lines 46-60 describes how the SNMP Window Module 416 derives a tree structure from MIB data)

a tree renderer configured to derive a tree structure from the sorted categories. (Col. 11 lines 56-58 show that the categories are used to create a tree structure on the screen)

Therefore Chari discloses all the limitations of claims 13-16 except for a web browser being used as an input and output device.

The general concept of using a web browser as an input and output device for a network monitor system is well known in the art as taught by IBM ("Bloodhound works with industry standard web browsers and the Apache web server" Page 1, paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the network monitoring system of Chari and the general concept of using SNMP to monitor queues as taught by Baker with the general concept of using a web browser to access a network monitoring program as taught by IBM in order to conveniently monitor servers that reside on the other side of a firewall. (Page 1 paragraph 2 lines 2-3)

9. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Chari as applied to claim 7 above, and further in view of Shannon ("Java™ 2 Platform Enterprise Edition Specification v1.2").

Chari discloses all the limitations of claim 9 except for the application server comprising a J2EE application server.

The J2EE application server is well known in the art as a enterprise networking programming language as taught by Shannon.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the network monitoring system of Chari and the general concept of using SNMP to monitor queues as taught by Baker with the J2EE application server taught by Shannon in order to make the system more reliable and scalable (Shannon, page 1-1 lines 9-10).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael E. Keefer whose telephone number is (571) 270-1591. The examiner can normally be reached on Monday-Thursday 8am-5pm, second Fridays 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on (571) 270-1808. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MEK 1/4/2007

FRANTZ JULES
SUPERVISORY PATENT EXAMINER